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R E M A R K S

The Examiner noted that claims 11, 16 and 17 were amended, but their status was said to be "Previously Presented." Applicants apologize for the error. A short conversation was held with the Examiner on November 9, 2007 to determine whether the claims were in fact amended in the Record. The Examiner indicated that they were.

Claims 1 and 8 were rejected under 35 USC 112, first paragraph. The Examiner asserts that the terms "signal" and "schema file" have no support in the specification. Applicants respectfully traverse.

As for the term "signal," in order to expedite prosecution the term "signal" is removed from claim 1, but it is noted that the specification illustratively deals with the voice communication network and, in particular, with information records pertaining to each of hundreds of millions of calls made daily. The specification also teaches that, illustratively, an "800-megabit High Performance Parallel Interface (HPPI) network providing 10 terabytes of on-line storage" (page 6) is employs to store these records. All artisans skilled in the art know and, indeed, any person who has ever dealt with voice communication, or with storage in some memory device, knows that it is signals that are stored, and it is signals that are retrieved.

As for the term "schema file," the examiner's attention is respectfully directed to lines 111-112 of the specification (at page 6), where it states "[W]hen that data is already in fixed format, all that is needed [sic] is to associate a data record schema with the file."

It is respectfully submitted that the rejection under 35 USC 112, second paragraph is overcome.

Claims 1-17 were rejected under 35 USC 101 because, according to the Examiner:

independent claims 1 and 8 are [sic] merely claiming functional descriptive material, i.e., abstract ideas.

Applicants respectfully traverse.

An interview was held regarding the rejection under 35 USC 101; and while the Examiner's courtesy is greatly appreciated, the issue basically was NOT resolved because the Examiner could not satisfactorily explain why, given all of the physical limitations that claim 1 contains, it still does not satisfy the requirements of 35 USC 101. The Examiner states that physical devices are required to overcome the rejection – but that is

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satisfied by claim 1 because it at least specifies a display element. In Diamond v. Diehr, 450 U.S. 175 (1981), a **single device** (a rubber curing machine) associated with a processor that solves a mathematical equation and consequently controls the device was held to be within the statutory class, so it makes no sense why, for example, the display of claim 1 that is surrounded by something that is less objectionable than solving a mathematical equation is not considered patentable subject matter.

Addressing the Examiner's comments in the Office action, it is respectfully first pointed out that the Examiner has not identified what he considers the "functional descriptive material," nor has the Examiner even attempted to demonstrate the validity of the adjective "merely," such as by addressing all else that the claims specify; much less, *demonstrating* that no other element of the claims exists that constitutes a limitation that makes the claim statutory.

Second, in the previous amendment applicant set forth at least three arguments relating to this rejection:

Applicants' First argument:

In the previous Office action, in support of the 101 rejection the Examiner cited a very long section of the MPEP without pointing out specifically which aspect of that section is applicable, or what portions of the rejected claims gave rise to the citation. It was totally unclear what in the cited MPEP section supported the Examiner's rejection of the claims, and applicants have rightfully pointed it out.¹ A rejection that is unclear is contrary to directive given to Examiners in the very first clause of MPEP 707.07(d); to wit: "Where a claim is refused for any reason relating to the merits thereof it should be 'rejected' and the ground of rejection fully and clearly stated" (emphasis supplied).

Examiner's response in the current Office Action:

The Examiner disagreed stating

¹ Applicants pointed it out by using the somewhat picturesque expression "... is like pointing to a haystack in support of the proposition that the proverbial needle is to be found there" and explaining that "this is particularly so where *neither the word 'preamble' nor the word 'system' is even found* in MPEP 2106."

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because the examiner did not cite to MPEP 2106 not relevant to discuss about it. A claim dealing with electromagnetic carrier signal is a nonstatutory subject matter and therefore non-patentable, See Diehr 450 U.S. at 185-86, 209 USPQ at 8.

Applicants' rebuttal:

Respectfully, the first sentence is not understood, and in particular it is not understood how this sentence addresses applicants' traversal on the basis that the Examiner's citation failed to support the rejection of the subject claims. As for the second sentence, its relevance is wholly unclear because applicants' do not claim electromagnetic carrier signal or anything like an electromagnetic carrier signal. Moreover, the Examiner's statement is plainly wrong because "a claim that deals with an electromagnetic carrier signal" certainly can be statutory. For example,

Apparatus that responsive to an applied electromagnetic carrier signal and produces [whatever; e.g., a gold ring] based on the information contained in said signal,

- (a) deals with *an electromagnetic carrier signal* and
- (b) most likely is patentable in view of the prior art (and arguably very desirable).

Applicants' Second argument:

Claim 1 clearly defines numerous elements, and at least some of them cannot be anything but hardware elements. Therefore, applicants' claim 1 definitely defines a hardware system, and not abstract ideas. For similar reasons claim 8 also does not define abstract ideas.

Examiner's response in the current Office Action: None

Applicants' rebuttal:

- (a) MPEP 707.07(f), titled "Answer All Material Traversed," states:

In order to provide a complete application file history and to enhance the clarity of the prosecution history record, an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application.

It also states

Where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

The Examiner failure to address applicants' argument is inappropriate.

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(b) Applicants had amended claims 1 and 8 in the aforementioned amendment to make them even more clearly statutory. As amended, the Examiner was addressing claim 1 that specifies a display which displays objects that are updated by processing data (and claim 8 specifies a step displaying on a display). *Not only has the Examiner failed to respond to the traversal, the Examiner also failed to even address the effects of the amendments to claims 1 and 8.*

Applicants' Third argument:

The Examiner's explanation that the preamble is not given weight does not support the rejection because applicants do not rely on the preamble *per se*, but on claim elements that follow the preamble.

Examiner's response in the current Office Action: None

Applicants' rebuttal: See point (a) above.

Substantively, applicants respectfully submit that claim 1 specifies a system that contains hardware elements and is, therefore, patentable. It specifies a display and that is clearly a hardware element. Since, anything to which a hardware element connects necessarily must be also a hardware element, in this case a "visualization interface," it follows that the visualization interface is a hardware element. The visualization interface is an element of the entire system. Amended claim 1 now also explicitly specifies "on-line storage." It is respectfully submitted that claim 1 is statutory.

Claim 8 is a method that displays data, in the form of objects, on a hardware display and is, therefore, also patentable.

The Examiner had cited the Diehr case, and applicants respectfully noted that, like the Diehr claims that the Supreme Court found to constitute patentable subject matter because it was limited to specific hardware, the instant claims are also limited specific hardware and therefore define statutory subject matter. Moreover, unlike the Diehr case which specifies a mathematical formula, the instant claims define NOTHING that is akin to a mathematical formula, which makes the claims even more squarely within the bounds of patentable subject matter.

Based on the above, it is respectfully submitted that the Examiner should withdraw the rejection under 35 USC 101. If the Examiner wishes to maintain the

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rejection, it is believed that applicants are entitled to, and respectfully request, that the Examiner clearly explain why a system that specifies a display, and objects that are displayed on the display, and where those objects are updated with created data is not statutory; and why a method that displays one or more objects on a display is not statutory. Also applicants respectfully request the Examiner to explain, as clearly as possible, how "a visualization interface, including a display" is "descriptive material, i.e., abstract ideas" or how "a plurality of processing tools" is "descriptive material, i.e., abstract ideas." Moreover, applicants respectfully request that in such an event applicants be given an opportunity to amend the claims (if deemed necessary) as a matter of right; i.e., that a **non-final** Office action be issued.

Claims 1-6 and 8-13 were rejected under 35 USC 103 as being unpatentable over Brown, US Patent 6,473,080 in view of Lakritz, US Patent 6,526,426 and further in view of Sattar, US Patent 6,154,728.

The rejection and the remarks accompanying the rejection (in points 10 and 11 of the current Office action) are "cut and paste" copies of the rejection and comments made in the previous Office Action. Applicants respectfully still traverse.

The Examiner responded to applicants' arguments, by singling out applicants' argument that "Lakritz simply does not teach what applicants claimed" and asserting that applicants' response fails to comply with 37 CFR 1.111(b) because (in essence) "applicant should argue claim by claim with their limitations and not in general."

In a real sense, the Examiner's comment is **unfair** because applicants have argued claim limitations and not in general and because applicants' assertion that Lakritz "simply does not teach what applicants claimed" was part of an extensive response and was specifically directed to the Examiner's comment that (a) "Lakritz do teach workflow pipeline", and that (b) "Lakritz teaches more details than the current invention." Moreover, it is respectfully submitted that applicants' arguments demonstrated that the claims are not obvious in view of the cited references and, therefore, applicants' response was compliant with 37 CFR 1.111(b).

To recap, applicants explained that the Lakritz "workflow" is different from "streaming," and since

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- a) claim 1 specifies "streaming,"
- b) the Examiner admitted that Brown does not teach streaming, and
- c) the Sattar reference does not teach streaming (and the Examiner does not assert that it does),

it follows that claim 1 is not obvious. If claim 1 is not obvious, it follows that all claims that depend on claim 1 are also not obvious. Since claim 8 also contains the "streaming" limitation, the same conclusion is reached in connection with claim 8 and the claims that depend on claim 8.

Given the above, it is respectfully submitted that the previous response did comply with 37 CFR 1.111(b), because the arguments that were presented to the Examiner, and restated above, do provide "arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references," as directed by 37 CFR 1.111(b).

As for the Sattar reference *per se*, applicants gave four distinct reasons why it does not add to the combination of the Brown and Lakritz references to make the claims obvious.

It is noted that in the current Office action the Examiner DOES NOT DISPUTE applicants' explanation of the difference between "workflow" and "streaming," and DOES NOT DISPUTE applicants' argument regarding the Sattar reference.

In light of the above amendments and remarks, applicants respectfully submit that all of the Examiner's rejections have been overcome. Reconsideration and allowance are respectfully solicited.

Respectfully,
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Dated: 12/4/07

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